

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 ANTHONY EDWARD MARTINEZ II,
4 Plaintiff
5 v.
6 MEDICAL ADMINISTRATION
7 DEPARTMENT OF MENTAL HEALTH,
8 *et al.*,
9 Defendants

Case No. 3:21-cv-00278-MMD-WGC

ORDER

10 **I. DISCUSSION**

11 On June 22, 2021, Plaintiff, an inmate in the custody of the Nevada Department of
12 Corrections (“NDOC”), submitted a Nevada State Board of Medical Examiners complaint
13 form, an Ex Parte Motion for Order to Transport Prisoner, and an untitled miscellaneous
14 document. (ECF Nos. 1-1, 1-2, 1-3). Plaintiff has not filed a complaint or an application
15 to proceed *in forma pauperis* in this matter.

16 Under Federal Rule of Civil Procedure 3, “[a] civil action is commenced by filing a
17 complaint with the court.” Fed. R. Civ. P. 3. As such, the Court grants Plaintiff until
18 **August 23, 2021** to submit a complaint to this Court.

19 Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin
20 a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil
21 action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the
22 inmate must submit all three of the following documents to the Court:

- 23 (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this
24 Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on
25 page 3),
26 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
27 official (i.e. page 4 of this Court’s approved form), and
28 (3) a copy of the **inmate’s prison or jail trust fund account statement for the**

1 previous six-month period.

2 The Court will grant Plaintiff a **one-time** opportunity to file a complaint and a fully
3 complete application to proceed *in forma pauperis* containing all three of the required
4 documents, or in the alternative, pay the full \$402 filing fee for this action on or before
5 **August 23, 2021**. Absent unusual circumstances, the Court will not grant any further
6 extensions of time. If Plaintiff is unable to file a complaint and a fully complete application
7 to proceed *in forma pauperis* with all three required documents or pay the full \$402 filing
8 fee on or before **August 23, 2021**, this case will be subject to dismissal without prejudice
9 for Plaintiff to file a new case with the Court when Plaintiff is able to file a complaint and
10 able to acquire all three of the documents needed to file a fully complete application to
11 proceed *in forma pauperis* or pay the full \$402 filing fee.

12 A dismissal without prejudice means Plaintiff does not give up the right to refile the
13 case with the Court, under a new case number, when Plaintiff is able to file a complaint
14 and has all three documents needed to submit with an application to proceed *in forma*
15 *pauperis*. Alternatively, Plaintiff may choose not to file an application to proceed *in forma*
16 *pauperis* and instead pay the full filing fee of \$402 on or before **August 23, 2021** to
17 proceed with this case.

18 **II. CONCLUSION**

19 For the foregoing reasons, IT IS ORDERED that Plaintiff will submit a complaint to
20 this Court on or before **August 23, 2021**.

21 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the
22 approved form for filing a 42 U.S.C. § 1983 complaint and instructions for the same. The
23 Clerk of the Court will also send Plaintiff a copy of his filings at ECF Nos. 1-1, 1-2, 1-3.

24 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
25 approved form application to proceed *in forma pauperis* by an inmate, as well as the
26 document entitled information and instructions for filing an *in forma pauperis* application.

27 IT IS FURTHER ORDERED that on or before **August 23, 2021**, Plaintiff will either
28 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52

1 administrative fee) or file with the Court:

2 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
3 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
4 signatures on page 3),

5 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
6 official (i.e. page 4 of this Court's approved form), and

7 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
8 **previous six-month period.**

9 IT IS FURTHER ORDERED that, if Plaintiff does not file a complaint and a fully
10 complete application to proceed *in forma pauperis* with all three documents or pay the full
11 \$402 filing fee for a civil action on or before **August 23, 2021**, this case will be subject to
12 dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case
13 number, when Plaintiff is able to file a complaint and has all three documents needed to
14 file a complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.

15 DATED: June 23, 2021

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17 UNITED STATES MAGISTRATE JUDGE
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